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Code: Section:

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CIVIL CODE - CIV

DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (*Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)*

PART 1. RELIEF [3274 - 3428] (*Part 1 enacted 1872.)*

TITLE 3. SPECIFIC AND PREVENTIVE RELIEF [3366 - 3424] (*Title 3 enacted 1872.)*

CHAPTER 3. Preventive Relief [3420 - 3424] (*Chapter 3 enacted 1872.)*

3420. Preventive relief is granted by injunction, provisional or final.

(Enacted 1872.)

3421. Provisional injunctions are regulated by the Code of Civil Procedure.

(Enacted 1872.)

3422. Except where otherwise provided by this Title, a final injunction may be granted to prevent the breach of an obligation existing in favor of the applicant:

1. Where pecuniary compensation would not afford adequate relief;
2. Where it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief;
3. Where the restraint is necessary to prevent a multiplicity of judicial proceedings; or,
4. Where the obligation arises from a trust.

(Enacted 1872.)

3423. An injunction may not be granted:

(a) To stay a judicial proceeding pending at the commencement of the action in which the injunction is demanded, unless this restraint is necessary to prevent a multiplicity of proceedings.

(b) To stay proceedings in a court of the United States.

(c) To stay proceedings in another state upon a judgment of a court of that state.

(d) To prevent the execution of a public statute, by officers of the law, for the public benefit.

(e) To prevent the breach of a contract the performance of which would not be specifically enforced, other than a contract in writing for the rendition of personal services from one to another where the promised service is of a special, unique, unusual, extraordinary, or intellectual character, which gives it peculiar value, the loss of which cannot be reasonably or adequately compensated in damages in an action at law, and where the compensation for the personal services is as follows:

(1) As to contracts entered into on or before December 31, 1993, the minimum compensation provided in the contract for the personal services shall be at the rate of six thousand dollars (\$6,000) per annum.

(2) As to contracts entered into on or after January 1, 1994, the criteria of subparagraph (A) or (B), as follows, are satisfied:

(A) The compensation is as follows:

(i) The minimum compensation provided in the contract shall be at the rate of nine thousand dollars (\$9,000) per annum for the first year of the contract, twelve thousand dollars (\$12,000) per annum for the second year of the contract, and fifteen thousand dollars (\$15,000) per annum for the third to seventh years, inclusive, of the contract.

(ii) In addition, after the third year of the contract, there shall actually have been paid for the services through and including the contract year during which the injunctive relief is sought, over and above the minimum contractual compensation specified in clause (i), the amount of fifteen thousand dollars (\$15,000) per annum during the fourth and fifth years of the contract, and thirty thousand dollars (\$30,000) per annum during the sixth and seventh years of the contract. As a condition to petitioning for an injunction, amounts payable under this clause may be paid at any time prior to seeking injunctive relief.

(B) The aggregate compensation actually received for the services provided under a contract that does not meet the criteria of subparagraph (A), is at least 10 times the applicable aggregate minimum amount specified in clauses (i) and (ii) of subparagraph (A) through and including the contract year during which the injunctive relief is sought. As a condition to petitioning for an injunction, amounts payable under this subparagraph may be paid at any time prior to seeking injunctive relief.

(3) Compensation paid in any contract year in excess of the minimums specified in subparagraphs (A) and (B) of paragraph (2) shall apply to reduce the compensation otherwise required to be paid under those provisions in any subsequent contract years.

However, an injunction may be granted to prevent the breach of a contract entered into between any nonprofit cooperative corporation or association and a member or stockholder thereof in respect to any provision regarding the sale or delivery to the corporation or association of the products produced or acquired by the member or stockholder.

(f) To prevent the exercise of a public or private office, in a lawful manner, by the person in possession.

(g) To prevent a legislative act by a municipal corporation.

(Amended by Stats. 1993, Ch. 836, Sec. 1. Effective January 1, 1994.)

3424. (a) Upon notice and motion, the court may modify or dissolve a final injunction upon a showing that there has been a material change in the facts upon which the injunction was granted, that the law upon which the injunction was granted has changed, or that the ends of justice would be served by the modification or dissolution of the injunction.

(b) Service of this motion to modify or dissolve a final injunction shall be made upon the nonmoving party by one of the following methods:

(1) If the party has not appeared in the action, the motion shall be served in the same manner as a summons pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure.

(2) If the party has appeared in the action, the motion shall be served either upon the party or his or her attorney, or upon the party if he or she has appeared without an attorney, either in the same manner as a summons pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of the Code of Civil Procedure or in the manner provided by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of the Code of Civil Procedure.

(c) This section does not apply to a final injunction issued pursuant to the Family Code.

(Added by Stats. 1995, Ch. 796, Sec. 1.5. Effective January 1, 1996.)